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Sixteenth session

SUMMARY RECORD OF THE 247th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 1 May 1996, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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GE.96-16020 (E)

The meeting was called to order at 10.10 a.m.

STATEMENT BY THE HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mr. AYALA-LASSO (High Commissioner for Human Rights) congratulated the members of the Committee who had been elected or re-elected at the fifth Meeting of States Parties to the Convention and assured them, as well as the other members of the Committee, of the Secretariat's support in the exercise of their mandate, which had become more delicate due to the budget crisis, which, far from diminishing, was becoming more acute. In fact, the 1996-1997 budget the General Assembly had adopted for the Organization was lower than that proposed by the Secretary-General. Moreover, the budget of the Centre for Human Rights had once again been reduced, by an amount of US$ 2.9 million, leaving the Centre with an annual budget of about US$ 22 million. It would therefore be necessary to reduce not only the number of posts in the Centre for Human Rights but also some programmes. The practical consequences of that reduction had not yet been determined, but were expected to be substantial. Those budgetary difficulties might affect the Committee against Torture, which, for example, might no longer be able to count on having documents in all its working languages at future sessions.

2. There was another crisis which would have a more specific impact on the Committee against Torture, namely that affecting the United Nations Voluntary Fund for Victims of Torture. At its fourteenth session, in May 1995, the Fund's Board of Trustees had recommended contributions of the order of US$ 2,700,000 for 1995 - although the requests for assistance amounted to more than US$ 5,500,000 - and, in April 1996, the total contributions received amounted to only about US$ 1,062,000, which was far from sufficient to meet the requests for aid, which already amounted to US$ 6 million. That severe financial crisis had prompted the Fund's Board of Trustees to appeal urgently to Governments for further contributions for 1996 so that the assistance programmes for victims of torture would not be jeopardized. At the fifty-second session of the Commission on Human Rights, he had appealed to all Governments to urge those which had pledged financial support to honour their pledges and to urge those who had not yet done so to contribute to the Fund.

3. During the present year, Mr. Nigel Rodley, the Special Rapporteur of the Commission on Human Rights on the question of torture, had received an impressive number of communications concerning torture. In his report to the Commission, Mr. Rodley stated that he had sent 113 urgent appeals to 43 Governments concerning 410 individuals and several groups of persons who, it was feared, might be subjected to torture. He had also transmitted 55 letters to 48 Governments concerning 750 cases of torture. The information received, containing a more general analysis of the phenomenon of torture, had also been brought to the attention of the Governments concerned. Forty-one States had sent replies to the Special Rapporteur on the subject of 330 cases that had been reported in previous years.

4. The members of the Committee would note that the Working Group of the Commission on Human Rights assigned to consider the draft optional protocol to the Convention against Torture had submitted the report on its November 1995 session to the Commission. The Group felt that it had made progress in its work and thought that it would be able to draft an extremely useful text

within a reasonable period of time. He concluded by once again wishing the Committee every success in its work and reaffirmed that it would enjoy support from the Centre for Human Rights as a whole and from himself in particular.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Second periodic report of Senegal (CAT/C/17/Add.14; HRI/CORE/1/Add.51)

5. At the invitation of the Chairman, Mr. Youssoupha Ndiaye, Mr. Amadou Diop, Mrs. Maîmouna Diop, Mr. Mamadou Lamine Fofana, Mr. Mandiougou Ndiaye, Mr. Ibou Ndiaye, Mr. El Hadji Abdoul Aziz Ndiaye (Senegal) took places at the Committee table.

6. The CHAIRMAN welcomed the Senegalese delegation and invited it to submit the second periodic report of Senegal (CAT/C/17/Add.14).

7. Mr. NDIAYE (Senegal) said that Senegal had always been regarded as a land of tolerance and humanism, a land of asylum where the protection of human dignity was deeply rooted in its philosophical and humanitarian tradition. The country's modern history began in 1960, following independence, but was actually only a continuation of the civilized values of which the Senegalese peoples were the legitimate heirs and faithful custodians. In a philosophy under which man was a sacred being, respect for life - and its corollary, namely physical and moral integrity - was the natural precursor of the rule of law, which prohibited any debasement of human beings and therefore outlawed any form of torture.

8. Senegal's fundamental statutes, beginning with the Constitution, were based on those sacrosanct principles. The Constitution affirmed, in a very forceful manner, that the State had a duty to protect and respect the human person. Senegal believed in the values and principles that constituted the rule of law, based on the separation of powers, which was an absolute reality in Senegal. However, that separation of powers must also be accompanied by full freedom of the press, which was another reality in Senegal, and by other mechanisms that demonstrated the effective participation of civilian society in a country's political life. In that context, he mentioned freedom of association, which was total, as well as the existence of a large number of non-governmental organizations which enjoyed full freedom of action, and the existence of the High Council for Radio and Television and the appointment of the ombudsman (Médiateur de la République).

9. It must be strongly affirmed that there were no gross and large-scale violations of human rights in Senegal, nor was there any systematic practice of torture, which was impossible by virtue of Senegal's history and philosophical tradition. If Senegal had not been a State subject to the rule of law, it would not have signed all the conventions and covenants which it had actually ratified, nor would it have scrupulously fulfilled its obligations under those international instruments. In that connection, he apologized to the Committee for the fact that the Senegalese delegation had been unable to attend the previous session, at which Senegal's report had been scheduled for consideration.

10. Being determined to ensure that its obligations were scrupulously respected, the Senegalese Government was in the process of modernizing the legal system. That involved a thorough reform of criminal law, taking into account the comments made by various United Nations committees and also some criticisms voiced by the press. Bodies had already been established for that purpose and the President of the Republic, who attached particular importance to that reform, had issued precise directives on that subject. Against that background of comprehensive reform, the Senegalese Human Rights Committee, over which he (Mr. Ndiaye) presided, would also be undergoing far-reaching changes in the light of the comments made during United Nations regional seminars on the effective promotion of human rights. The Senegalese authorities had already submitted their second periodic report to the African Commission on Human Rights and, on that occasion, had invited anyone who wished to do so to visit the country in complete freedom, something that would make it possible to verify the openness and transparency that prevailed there

11. Mrs. ILIOPOULOS-STRANGAS (Country Rapporteur) thanked the Senegalese delegation for its second periodic report (CAT/C/17/Add.14), as well as the basic document (HRI/CORE/1/Add.51) and the oral presentation. She welcomed the improvement in the human rights situation in the country and, in particular, the establishment of an office for human rights at which any citizen could lodge a complaint if his rights were violated.

12. With regard to the general legal framework for the application of the Convention (paras. 1 to 20 of the report), it would be useful to have information on the three new bodies established to replace the Supreme Court, including, in particular, details concerning the functions and powers of the Constitutional Council, the composition of the Council of State and the ways in which the impartiality of the judiciary could be guaranteed. The question of functions and method of appointment likewise arose in regard to the ombudsman (Médiateur de la République), a post that had been created in 1991.

13. It was regrettable that, in spite of the promises made by its representative during the presentation of the previous report, Senegal had not yet incorporated in its national legislation a definition of torture in conformity with article 1 of the Convention. However, it was not obligatory for that definition to appear in the Constitution and the Committee welcomed the fact tnat plans had been made to include it in the bill of law amending the Penal Code, which was in the process of being adopted. In that connection, she inquired whether the Penal Code, which already penalized physical torture, also penalized mental torture.

14. Paragraph 28 of the report referred to "detailed regulations" governing the Executive's handling of exceptional circumstances, which law enforcement agencies might use as a pretext for engaging in acts of torture. However, article 2, paragraph 2, explicitly stipulated that no exceptional circumstances whatsoever could be invoked as a justification of torture. Moreover, paragraph 3 of the same article likewise stipulated that an order from a superior officer or a public authority could not be invoked as a justification of torture. Although the Senegalese courts unanimously held that no order from a superior officer could justify the practice of torture (para. 28 of the report), that did not constitute an adequate safeguard. It

was necessary to know whether a particular legal provision guaranteed the application of article 2, paragraph 3, of the Convention and whether there was an enactment under which the practice of torture was explicitly prohibited.

15. It was apparent from paragraph 29 of the report that Senegalese legislation placed Senegalese nationals and foreigners holding a residence permit on an equal footing in respect of freedom of movement and choice of a place of residence throughout the national territory, but she would point out that the aim of article 3 of the Convention was to protect all foreigners, and particularly those who did not hold a residence permit, against expulsion, return or extradition to another State where they might be in danger of being subjected to torture. She therefore inquired whether an amendment was planned, within the context of the reform of the legal system, with a view to protecting foreigners without a residence permit.

16. Under article 4 of the Convention, each State Party should ensure that all acts of torture constituted offences under its criminal law and that the same should apply to an attempt to commit torture and to an act by any person which constituted complicity or participation in torture. Did the Senegalese Penal Code prescribe penalties for attempts to commit torture or for complicity or participation in acts of torture? Given the fact that, under article 666 of the Code of Criminal Procedure, if an offence by a Senegalese national against an individual was committed abroad, the victim must file a complaint or the offence must be officially reported by the authorities of the State concerned (para. 40 of the report), the question arose as to whether the said offences included acts of torture.

17. With regard to the application of article 6 of the Convention, she wondered whether, under Senegalese law, international relations between States might be accorded precedence over the prevention and punishment of the crime of torture, since it was stipulated that, when a person who had committed an offence abroad was present in Senegalese territory, he could be arrested only at the request of the other State (para. 44 of the report). Paragraph 46 further indicated that a fugitive sought by another State enjoyed all the guarantees concerning the right of defence since he could be counselled by a lawyer, although it was not specified whether he would be entitled to legal aid if he was indigent.

18. As to the application of articles 9 and 10 of the Convention, she welcomed the fact that Senegal was one of the African countries which afforded the greatest measure of mutual assistance in judicial matters, especially in terms of prosecution. The Senegalese public authorities had recently incorporated the question of human rights in the training programmes for various categories of law enforcement personnel and that practice set a good example for many countries, even in Europe.

19. Concerning police custody, she wished to know the maximum period of time by which police custody could be extended beyond the first 48 hours (para. 59 of the report, art. 11 of the Convention) and how many times a pre-trial detention order issued by an examining magistrate could be renewed.

20. According to paragraph 73 of the report, the application of article 12 of the Convention was "encountering serious obstacles in Senegal and this has led to much debate between the authorities of the country, on the one hand, and the United Nations human rights monitoring bodies and some non-governmental organizations, on the other". It seemed that, in that regard, international law conflicted with national law even though article 79 of the Constitution stipulated that any international treaty took precedence over national law. The legal solution was therefore clear: international law should take precedence over the amnesty laws adopted between 1988 and 1993 (para. 83 of the report). In that connection, she wished to know whether those laws ranked as constitutional. At all events, the controversy seemed to be of a political rather than a legal nature.

21. She commended the frankness of the Senegalese authorities, which had recognized (para. 103 of the report) that the list of victims of torture, who had filed complaints and won their cases in the courts, was long. With regard to the application of article 15 of the Convention, she inquired whether there were any provisions in Senegalese law under which evidence obtained under torture was regarded as null and void. Moreover, articles 106 et seq. of the Penal Code, under which infringements of an individual's freedom or safety committed by officials were punishable by terms of imprisonment and fines, were not sufficient to guarantee the application of article 16 of the Convention.

22. In conclusion, she wished to know what progress had been made in regard to the procedure needed to enable the State party to make the declaration provided for in article 22, paragraph 1, of the Convention.

23. Mr. REGMI (Country Rapporteur) pointed out that, since the submission of the initial report of Senegal, the Committee had not received sufficient information on the legislative, administrative, judicial and other measures taken to prevent any act of torture in its territory. Like Mrs. Iliopoulos-Strangas, he noted that plans had been made to incorporate the definition of torture in the future revised Penal Code and therefore called upon the Senegalese Government to take the necessary action to ensure rapid adoption of that draft Code so that all acts of torture would constitute criminal offences.

24. With regard to the right of a victim of an act of torture to obtain redress and compensation, including as full rehabilitation as possible, and the entitlement of the victim's dependants to compensation in the event of his death, as provided for in article 14 of the Convention, paragraphs 104 to 107 of the periodic report showed that, although legal provisions did exist in that field, they did not cover all those eventualities. It would be helpful if Senegal could provide the Committee with statistical data showing the number of victims of acts of torture and the number of victims who had benefited from compensation and rehabilitation, as well as the maximum amount of compensation payable to the relatives of a victim of torture in the event of his death and the proportion of victims of torture who had not lodged a complaint, and the reasons for their failure to do so. The information on those points should be as detailed as possible.

25. Article 2, paragraph 2, of the Convention stipulated that no exceptional circumstances whatsoever could be invoked as a justification of torture. Although the Senegalese Government was faced with an armed separatist movement in Casamance in the southern part of the country, its desire to safeguard national unity and the integrity of the State could not justify the systematic resort to torture by the security forces, with full impunity, even if some members of the MFDC, the separatist movement, had themselves committed serious abuses against the civilian population of that region. Numerous sources, and particularly the Amnesty International report dated 28 February 1996, had mentioned acts of torture committed not only against Casamance separatists but also against individuals held in various places of detention. According to those sources, the Senegalese security forces resorted to torture, with full impunity, in order to extract confessions from persons accused of ordinary offences or persons suspected of political offences, particularly in connection with the Casamance crisis. In that regard, he mentioned the names of Mody Sy, who had been subjected to electric shock torture in May 1993 at the gendarmerie headquarters, Ramata Gueye, Lamine Samb, who had died in detention in February 1994 as a result of torture, and Hamara Diedhou, who had died under torture without any autopsy being carried out even though a physician had noted that his death was due to a cerebrocranial trauma probably caused by a blunt object. The case of Mareme Ndiaye, which was also mentioned in the Amnesty International report, was particularly revealing. After being arrested in September 1994 for trafficking in stolen goods, she had first been tortured before being released; on returning the following day to lodge a complaint, she had been once again arrested, dragged down to the beach and raped by several members of the security forces. One year later, five police officers, including a police inspector, had been arrested but the inspector had been released on bail, which constituted a further flagrant case of impunity. As indicated in the Amnesty International report, the widespread resort to torture was facilitated by the rules on police custody, under which the police could detain a person in solitary confinement for a maximum period of four days, with the possibility of an eight-day extension, if the person was suspected of attempting to violate State security. In fact, most cases of torture occurred during that period, when persons under arrest did not have access to a lawyer or even a medical practitioner. The Committee had no doubt that the Senegalese Government would endeavour to remedy that situation.

26. Concerning Casamance, in addition to the systematic resort to torture and hundreds of arrests, the various sources mentioned detentions without trial, extrajudicial executions and disappearances attributed to the security forces, many victims being named in the Amnesty International report. Although the situation facing the Senegalese Government in Casamance was extremely difficult, repression, oppression, torture and intimidation were hardly likely to produce the desired results. A responsible Government should act in a responsible manner and seek political means to settle a political problem. The Committee had no doubt that the Senegalese Government was endeavouring to protect human rights and apply the Convention and the highly informative second periodic report that it had submitted gave cause to hope for a brighter future.

27. Mr. SØRENSEN noted that paragraph 28 (d) of the report referred to the question of due obedience as a justification of torture. The Senegalese Government should consider amending article 315 of the Penal Code, which was

frequently invoked by policemen to justify acts of torture even if the Senegalese courts unanimously held that no order issued by a superior could exonerate the persons guilty of such acts. Paragraph 103 of the periodic report clearly showed that there was a problem of torture in Senegal and ways had to be devised to remedy the situation. A welcome development in that regard was the fact that the Senegalese Government had decided to incorporate the prohibition of torture in the programmes at various training colleges (paras. 56 and 57). However, there was a need to go even further by endeavouring to train health personnel and, in particular, medical practitioners who were called upon to treat and rehabilitate victims of torture but who, unfortunately, were also sometimes involved in acts of torture.

28. Although paragraphs 104 to 107 of the second periodic report referred to compensation and rehabilitation, there was no mention of moral reparation, i.e. the State's recognition of its errors. Moreover, in Senegal, only the victim could bring an action even though the victims of torture were usually not in a position to do so. In that connection, it would be interesting to know whether, when a criminal investigation established that a police officer had been guilty of an act of torture, the judge was automatically empowered to award damages to the victim of the offence or whether the victim needed to bring an action for damages, in which case that provision would need to be amended. With regard to medical rehabilitation, the Senegalese Government, having admitted that a problem of torture did exist, might consider making a modest contribution to the United Nations Voluntary Fund for Victims of Torture. It would thereby actually be contributing to the rehabilitation of victims of torture while, at the same time, according a certain degree of moral reparation to the Senegalese victims of torture.

29. Mr. BURNS expressed surprise that the Penal Code covered the practice of torture during the lawful arrest or detention of persons but made no provision for cases of arbitrary arrest or detention, as seemed to be implied in paragraph 3 of the report. If that was actually the case, it would be helpful to have clarification in that regard. Although torture was not explicitly defined in Senegal's Constitution and Penal Code, the report indicated that, in practice, the courts convicted the perpetrators of acts of torture. Accordingly, it would be helpful if the Committee could be provided with the definition of torture as it appeared in the draft revised Penal Code and as it was interpreted in case-law. Paragraph 39 of the report stated that a criminal court was competent to hear all cases involving serious offences committed abroad but, in the absence of a legal definition of torture, it might be wondered on what basis Senegal exercised universal jurisdiction under the terms of article 5, paragraph 2, of the Convention.

30. Since the head of the Senegalese delegation was the President of the Senegalese Human Rights Committee, it would be interesting to hear information from him about that body, particularly its origin and its functions.

31. In its report, Amnesty International affirmed that a person could be held in police custody for up to four days without contact with the outside world. Everyone knew that it was during that period that most acts of torture occurred and it would therefore be useful to know whether, and for how long, a person could actually be held in police custody without contact with a lawyer,

a member of his family or a medical practitioner. Amnesty International also referred to extrajudicial executions and disappearances for which military personnel were allegedly responsible. Extrajudicial executions were contrary to article 16 of the Convention against Torture even if they did not, strictly speaking, constitute acts of torture. He invited the Senegalese delegation to refute or confirm those allegations.

32. The concept of the rights and obligations of citizens seemed excessively legalistic in Senegal since, according to the report, an investigation could be undertaken only on the basis of a complaint from the victim. The question therefore arose as to whether, in the event of the victim's death and in the absence of relatives, the Government Prosecutor's Office would be unable to prosecute persons accused of acts of torture. It would be interesting to know the results of the investigations carried out in the two cases mentioned in paragraph 93, as well as the average duration of an investigation in cases of that type.

33. With regard to the conflict between international law and internal law, to which reference had been made in paragraph 100 of the report, it was sufficient to point out that the Human Rights Committee had recently expressed the view that no domestic legal provision could be invoked to exonerate agents of the State from responsibility for infringements of human rights and thereby grant them impunity. The Committee against Torture must likewise refuse to accept domestic reasons, even of a political nature, as justification for acts of torture.

34. Mr. PIKIS wished to know what measures had been taken in Senegal to ensure the independence of the judiciary, particularly if judges were appointed for life, by whom they were so appointed and what powers they exercised. Again, how was the Senegalese Government responding to the comments of independent bodies and international organizations seeking to promote respect for human rights throughout the world, particularly the reports of Amnesty International and other organizations of that type? Did the State party have institutions responsible for studying such reports and cooperating with those organizations in order to clarify the matters that they raised, thereby ensuring effective protection of human rights?

35. The second periodic report seemed to indicate that actions for damages must be brought before a criminal court, thereby posing the question as to whether such actions could also be brought before a civil court and, if not, for what reasons. With regard to legal aid, it would be helpful to know whether there was a fund to which victims of torture could apply and secure the means needed to engage the services of a lawyer to bring a public or private action.

36. He would welcome details about the precise functions of the ombudsman, whose role was apparently comparable to that of the French ombudsman. Had he already received complaints concerning torture and, if so, from which bodies and in what circumstances, and had cases of torture been settled out of court in that way? Were the courts empowered to verify whether the conditions justifying the proclamation of a state of emergency were met, or was that question left to the exclusive discretion of the Parliament? He also requested details of the powers and the composition of the disciplinary board

mentioned in paragraph 38 of the report and wished to know why members of the police force and the gendarmerie could not be prosecuted before an ordinary court.

37. He attached the greatest importance to the rules applicable to the interrogation of detainees and suspects and inquired whether the Code of Criminal Procedure or any other text incorporated such rules; if that was the case, he would like to know their content. In particular, could suspects refuse to answer questions and were they informed of their rights before the interrogation, particularly their right to remain silent?

38. Finally, concerning paragraph 108 of the report, it was important to know who bore the onus of proof or, in other words, who was required to produce the evidence in court.

39. Mr. ZUPANCIC said he understood that the Senegalese system of criminal procedure was based on Roman law. Consequently, it was surprising that a criminal action could not be brought unless the victim had filed a complaint. In fact, under article 5 of the Convention, the States parties were required to take such measures as might be necessary to establish their jurisdiction over the offences referred to in the Convention and, in Roman law, in such cases criminal proceedings were automatically instituted by the State as soon as torture was suspected. A complaint by the victim should not be a sine qua non for instituting proceedings.

40. Article 15 of the Convention excluded the possibility that a statement made as a result of torture might be invoked as evidence, particularly since such statements could not be used at any stage of the proceedings. However, it was stated in paragraphs 108 and 109 of the report that evidence thus obtained was of no value in court proceedings and that the courts were wary of confessions, which were always a suspect form of evidence. Although all that was perfectly correct, it was not what was meant by article 15 of the Convention, which stipulated that, as a matter of principle, that type of evidence must not be invoked under any circumstances. Paragraph 109 of the report indicated that a deposition which the person concerned had refused to sign, or which he had signed as a result of threats by the investigators, was null and void; in many countries which applied Roman law such a document would be purely and simply removed from the case file and the court would not take cognizance of it. He wished to know what was meant by "the deposition is null and void".

41. Mr. YAKOVLEV, for his part, also stressed the need to leave scope for instituting proceedings even in the absence of complaints by the victims. It was crucially important to be able to prosecute on the basis of reliable information even if no complaint had been filed, since the victims, being terrorized, might remain silent. One should not overlook the fact that the Government Prosecutor's Department had an obligation to ensure that any allegation of torture was immediately investigated in a thorough and impartial manner.

42. Mrs. ILIOPOULOS-STRANGAS (Country Rapporteur), returning to the question of the legitimacy of complaints, asked whether the victim of acts of torture was the sole person entitled to file a complaint or could that also be done by his successors or even by a non-governmental organization?

43. The CHAIRMAN thanked the Senegalese delegation for its attention and invited it to reply to the Committee's questions at the 248th meeting.

44. The Senegalese delegation withdrew.

The meeting was suspended at 12.25 p.m. and resumed at 12.40 p.m.

AMENDMENTS TO THE RULES OF PROCEDURE OF THE COMMITTEE (agenda item 11) (CAT/C/XVI/Misc.1)

45. Mr. BRUNI (Secretary of the Committee) pointed out that the three proposed amendments appearing in document CAT/C/XVI/Misc.1 had been submitted to the Committee by Messrs. Burns, El-Ibrashi and Sørensen at the previous session.

46. Mr. BURNS said that those proposals had formed the subject of lengthy and heated discussions at which it had not been possible to reach a consensus. Since that approach had failed, he did not deem it advisable to reopen the debate at the present session.

47. Mr. YAKOVLEV said the discussions had been lively. However, at the present time the content of the three proposals seemed to be quite reasonable and conducive to solving numerous problems; the Committee should be able to adopt them without reservation.

48. Mr. SORENSEN said he thought that the question had been settled and did not need to be reconsidered.

49. Mr. PIKIS said that, as a new member of the Committee, he was unaware of the subject-matter of that discussion. For his part, however, he did not see how the amendments could be of any benefit, since the members of the Committee were elected in their personal capacity and by virtue of their commitment to the cause of human rights. To prohibit them from taking part in some debates would call their impartiality into question and would detract from the Committee's prestige. He was strongly opposed to the adoption of those amendments.

50. Mrs. ILIOPOULOS-STRANGAS recalled that, on the conclusion of the discussions on that question, a consensus had been found to be impossible. She thought that it had been agreed to resume the discussion at the present session.

51. Mr. CAMARA had not been a member of the Committee when the amendments had been considered and he wished to know more about the matter. At first sight, the proposed amendments seemed to make good sense; the members of the Committee should keep a low profile when their country's report was being considered, but it was not perhaps essential to formally exclude them from the discussions.

52. Mr. BURNS suggested that the discussion should not be taken further on a point which, after all, was not of capital importance, since the members of the Committee had the right to choose the course of conduct they deemed best.

53. At the request of the CHAIRMAN, Mr. BRUNI (Secretary of the Committee) gave a brief account of the background of the question and pointed out that, at its tenth session, the Committee had taken the view that, in the light of past experience, it might be advisable to improve the rules of procedure. The Secretariat had prepared informal documentation on the subject and, at its thirteenth session, in November 1994, the Committee had adopted amendments to rules 106 and 108 of its rules of procedure, which were annexed to the Committee's last report to the General Assembly (A/50/44). At its fifteenth session, the Committee had continued its consideration of other amendments to its rules of procedure and had adopted those concerning the inter-sessional powers and functions of the Chairman, as well as an amendment concerning the publication of the results of investigations undertaken pursuant to article 20 of the Convention. The procedure still needed to be improved in regard to the conduct to be observed by the Committee's members who were nationals of a State the case of which was being considered under the terms of articles 19, 20 and 22 of the Convention. Various proposals had been rejected and, after a lively discussion, the Committee had decided, on 24 November 1995, to defer consideration of that question to the present session. The text submitted in document CAT/C/XVI/Misc.1 contained the proposals that had been left pending at the fifteenth session.

54. Mr. GONZALEZ POBLETE said that the proposals contained in the document under consideration were perfectly logical and useful. Although the members of the Committee were independent experts, their candidature was submitted by Governments. The proposed rules were likely to strengthen their independence, since Governments would not be tempted to attempt to influence their nationals.

55. Mr. SØRENSEN pointed out that the Committee had several new members and, before taking a decision, it would be helpful for them to familiarize themselves with the Committee's work. He therefore proposed that the consideration of the proposed amendments to the rules of procedure that had been submitted in document CAT/C/XVI/Misc.1 should be deferred to the seventeenth session.

56. It was so decided.

The meeting rose at 1.05 p.m.